



17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

MORGAN HILL

FINANCE AND AUDIT COMMITTEE

Morgan Hill Civic Center
Administration Conference Room
17555 Peak Avenue
Morgan Hill, California

Chair
Committee Member
City Treasurer
Staff: City Attorney
Finance Director
Budget Manager
Assistant to the City Manager

Larry Carr
Steve Tate
Mike Roorda
Helene Leichter
Jack Dilles
Chu Thai
Tony Eulo

SPECIAL MEETING

Wednesday, February 27, 2002

MINUTES

5:45 P.M.

CALL TO ORDER

Chair Carr & Commission Members Tate & Roorda; *Staff:* Leichter, Dilles, Thai, & Eulo

DECLARATION OF POSTING OF AGENDA

In compliance with Government Code 54954.2

PUBLIC COMMENTS

The Morgan Hill Finance and Audit Committee welcomes comments from all individuals on any agenda item being considered by the Committee. In the interest of brevity and timeliness and to ensure the participation of all those desiring an opportunity to speak, comments presented to the Committee are limited to Three Minutes.

BUSINESS:

1. Approval of minutes for January 16, 2002.

The minutes for January 16, 2002 were approved.

2. Local preference purchasing (discussion)

City Attorney Leichter spoke regarding the issue of providing preferences to local businesses to encourage them to do business with the City. She indicated that she has been researching this matter and had spoken to attorneys representing other California cities on this subject. Her conclusion is that there should be a correlation and economic study to demonstrate an evidentiary record as to why it is more costly to conduct business within the City limits. Without this evidence, the City would face a higher level of legal risk because the federal Constitution mandates that the City cannot discriminate against business entities from other states or other areas. The City Attorney would be comfortable with a local preference that was equal to no more than the sum of the 1% sales tax that goes to the City plus the cost of a City business license, since these represent incremental costs that a business must incur to operate within Morgan Hill.

Chair Carr asked staff to follow up with the Chamber of Commerce regarding the feasibility of distributing requests for proposals to the Chamber as a way of reaching out to local businesses. He indicated that the City used to provide these requests to the Chamber.

The City Attorney indicated, in response to requests, that it is also possible for the City to provide preferences to local businesses by adding to the list of criteria for selecting the successful bidder. Currently, according to Finance Director Dilles, awards of bids subject to the Purchasing ordinance, are made on the basis of price, except that with sufficient justification and documentation, up to nine other specific criteria specified in the Purchasing Ordinance may be considered in awarding the purchase. Further, according to the City Attorney, public works projects are awarded on the basis of the lowest responsive bid. It was suggested by Chair Carr and Committee member Tate that, in order to promote the local economy, the following criteria be added to the list of allowable criteria within the Purchasing Ordinance:

- 1) Proximity of the business and the ability to be responsive to the City's needs*
- 2) Past business relationships*
- 3) Familiarity with the community and the community's needs*

The Committee asked that this issue be re-visited at the next Committee meeting. The Finance Director indicated that he would re-schedule this discussion, would bring specific language regarding the expanded criteria to the Committee, and would invite the Public Works Director to the meeting so that he could be part of the discussion as it relates to public works projects.

The Committee agreed that the local preferences should consist of the expanded criteria plus a 1% local preference, following the Finance Director's recommendation that the preference not include the amount of the business license tax, given the small amount of

and complexity of the business license tax.

3. Other proposed purchasing procedure changes

Assistant to the City Manager Eulo then described a proposed administrative policy that would encourage environmentally friendly purchasing on the part of the City and would mandate City recycled paper purchases in most cases. Staff proposes that, at the same time, the 5% preference for the purchase of recycled paper, currently existing in the Purchasing Ordinance, be deleted, since that policy is not effective. Chair Carr asked if this is the best we could do and Mr. Eulo indicated that it is good enough for the moment. Chair Carr and Mr. Eulo both agreed that we could recognize green friendly businesses through a publication process. Staff indicated that this subject would be further explored.

The Finance Director talked about the previously proposed changes to the Purchasing Ordinance and the fact that the City Council had raised certain questions about the changes and about the Purchasing Ordinance in general. First, the City Council indicated that they would like to see the entire Purchasing Ordinance and not just the sections of the Ordinance proposed to be amended. Staff included the entire Ordinance in the Committee's agenda packet and will include the entire Ordinance when this matter returns to the City Council.

Second, staff indicated that the City Council was concerned about checks and balances in the procurement process. Staff described the process, for most purchases, which requires departments to submit a requisition, approved by a designated person within the department, to the Purchasing Officer and requires the Purchasing Officer, City manager, or City Council to approve the purchase, depending upon the dollar amount. Further, the Accounts Payable staff person in the Finance Department reviews the requisition for proper authorization and compliance with the purchasing requirements prior to processing of the purchase order. Finally, there is a review of the invoice for services or products provided by Finance staff prior to payment. Staff concluded that there are sufficient checks and balances to prevent abuses; however, there is always the remote possibility that staff and vendor collusion could circumvent these controls, but the cost of implementing controls should not exceed the cost savings resulting from the controls. Committee member Roorda suggested that staff consider putting the list of City vendor payments on the City's web page as an additional way to expose vendor payments to the public and thereby discourage inappropriate purchases. Staff will research the feasibility of doing this.

Third, the City Council indicated that they would like to see a survey of other cities to show the dollar level above which written purchase orders are required. Staff attached a survey as art of the Committee's agenda packet and will forward this survey to the City Council when this matter returns to their agenda. Last, the City Council asked where in the existing Ordinance is it specified which criteria are to be used in selecting the successful bidder and how price fits into the criteria. Staff indicated that section

3.04.080 describes this process and was reflected in the staff report.

The Committee agreed that the existing Ordinance meets the City's needs and suggested no additional changes. Committee members agreed that they would take the lead in bringing the suggested changes back to the City Council. This will occur after staff brings the local preference changes back to the Committee at the March Committee meeting.

- 4. Management Letter Recommendation follow-up concerning cash controls**
Staff gave a brief report concerning "cash receipts in the Community Development Department" and the security over these receipts in light of recent changes associated with the Finance Department's move to a location further away from the Community Development Department. Staff did meet with Community Development Department personnel and will be implementing the auditor's recommendation to install a cash register in the Department to address the auditor's concerns.
- 5. Mid-year 2001/02 Budget Review (City Council agenda item #8 on 2/20/01)**
This item was briefly discussed.
- 6. Financial and Investment Report for January 2002**
This item was not discussed due to time constraints.
- 7. Future Agenda Items**
Chair Carr asked staff to consider providing for a Finance and Audit Committee monthly report to be made by Committee member Roorda at City Council meetings. Mr. Roorda was amenable to this suggestion.

NOTICE

AMERICANS WITH DISABILITY ACT (ADA)

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